

## SENATE BILL NO. 1

INTRODUCED BY RYAN, COCCHIARELLA, GILLAN, ELLIOTT, HAWKS, LARSON, LASLOVICH,  
SCHMIDT, SQUIRES, TESTER, TROPILA, WEINBERG, WHEAT, BERGREN, COHENOUR, DICKENSON,  
DOWELL, HAMILTON, JOPEK, LENHART, MATTHEWS, MCALPIN, PARKER, WANZENRIED,  
WINDY BOY, WISEMAN

BY REQUEST OF THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS GOVERNING SCHOOL  
FUNDING IN ACCORDANCE WITH THE MONTANA CONSTITUTIONAL REQUIREMENT THAT SCHOOL  
FUNDING BE BASED ON A DEFINITION OF THE BASIC SYSTEM OF FREE QUALITY PUBLIC  
ELEMENTARY AND SECONDARY SCHOOLS; PROVIDING FOR A QUALITY EDUCATOR PAYMENT AND  
A METHOD FOR CALCULATING FUNDING FOR THAT PAYMENT; PROVIDING FOR AN AT-RISK STUDENT  
PAYMENT AND A METHOD FOR CALCULATING FUNDING FOR THAT PAYMENT; PROVIDING FOR AN  
INDIAN EDUCATION FOR ALL PAYMENT AND A METHOD FOR CALCULATING FUNDING FOR THAT  
PAYMENT; PROVIDING FOR AN AMERICAN INDIAN STUDENT ACHIEVEMENT GAP PAYMENT AND A  
METHOD FOR CALCULATING FUNDING FOR THAT PAYMENT; DEFINING ~~SMALL SCHOOL~~; TOTAL  
QUALITY EDUCATOR PAYMENT, TOTAL AT-RISK STUDENT PAYMENT, TOTAL INDIAN EDUCATION FOR  
ALL PAYMENT, AND TOTAL AMERICAN INDIAN STUDENT ACHIEVEMENT GAP PAYMENT; RETAINING  
3-YEAR AVERAGING FOR ANB; RETAINING INCREASES IN THE PER-ANB ENTITLEMENT AND THE BASIC  
ENTITLEMENT; INCREASING RATES FOR INDIVIDUAL TRANSPORTATION FROM 25 CENTS A MILE TO  
35 CENTS A MILE; AMENDING SECTIONS 20-5-323, 20-7-102, 20-9-306, 20-9-311, 20-9-321, ~~AND 20-9-344,~~  
~~AND 20-10-142~~, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Quality educator payment. ~~(1) The state shall provide a quality educator  
payment to public school districts as defined in 20-6-101 and 20-6-701.~~

~~——— (2) The number of quality educators for each school district is based on a ratio of 1 educator for every  
13 ANB, calculated as provided in 20-9-311. The number of qualified educators must be rounded to the nearest  
one-tenth of a calculated educator with a minimum of one educator for each district.~~

~~\_\_\_\_\_ (3) The quality educator payment is \$2,000 for each quality educator for each school fiscal year. The state shall provide an additional quality educator payment of \$2,000 for each quality educator to small schools, as defined in 20-9-306. (1) (A) THE STATE SHALL PROVIDE A QUALITY EDUCATOR PAYMENT TO:~~

~~(I) PUBLIC SCHOOL DISTRICTS, AS DEFINED IN 20-6-101 AND 20-6-701;~~

~~(II) SPECIAL EDUCATION COOPERATIVES, AS DESCRIBED IN 20-7-451;~~

~~(III) THE MONTANA SCHOOL FOR THE DEAF AND BLIND, AS DESCRIBED IN 20-8-101; AND~~

~~(IV) STATE YOUTH CORRECTIONAL FACILITIES, AS DEFINED IN 41-5-103.~~

~~(B) A SPECIAL EDUCATION COOPERATIVE THAT HAS NOT MET THE REQUIREMENTS OF 20-7-453 AND 20-7-454 MAY NOT BE FUNDED UNDER THE PROVISIONS OF THIS SECTION EXCEPT BY APPROVAL OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION.~~

~~(2) (A) THE QUALITY EDUCATOR PAYMENT FOR SPECIAL EDUCATION COOPERATIVES MUST BE DISTRIBUTED DIRECTLY TO THOSE ENTITIES BY THE SUPERINTENDENT OF PUBLIC INSTRUCTION.~~

~~(B) THE QUALITY EDUCATOR PAYMENT FOR THE MONTANA SCHOOL FOR THE DEAF AND BLIND MUST BE DISTRIBUTED TO THE MONTANA SCHOOL FOR THE DEAF AND BLIND.~~

~~(C) THE QUALITY EDUCATOR PAYMENT FOR PINE HILLS AND RIVERSIDE YOUTH CORRECTIONAL FACILITIES MUST BE DISTRIBUTED TO THOSE FACILITIES BY THE DEPARTMENT OF CORRECTIONS.~~

~~(3) THE QUALITY EDUCATOR PAYMENT IS \$2,000 TIMES THE NUMBER OF FULL-TIME EQUIVALENT EDUCATORS, AS REPORTED TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION FOR ACCREDITATION PURPOSES IN THE PREVIOUS SCHOOL YEAR, EACH OF WHOM:~~

~~(A) HOLDS A VALID CERTIFICATE UNDER THE PROVISIONS OF 20-4-106 AND IS EMPLOYED BY AN ENTITY LISTED IN [SECTION 4] SUBSECTION (1) IN A POSITION THAT REQUIRES AN EDUCATOR LICENSE IN ACCORDANCE WITH THE ADMINISTRATIVE RULES ADOPTED BY THE BOARD OF PUBLIC EDUCATION; OR~~

~~(B) (I) IS A LICENSED PROFESSIONAL UNDER 37-8-405, 37-8-415, 37-11-301, 37-15-301, 37-23-201, 37-24-301, OR 37-25-302; AND~~

~~(II) IS EMPLOYED BY AN ENTITY LISTED IN [SECTION 4] SUBSECTION (1) TO PROVIDE SERVICES TO STUDENTS.~~

**NEW SECTION. Section 2. At-risk student payment.** (1) The state shall provide an at-risk student payment to public school districts, as defined in 20-6-101 and 20-6-701, for at-risk students, as defined in 20-1-101 and referred to in 20-9-309.

(2) The at-risk student payment must be distributed to public school districts by the office of public

instruction in the same manner that the office of public instruction allocates the funds received under 20 U.S.C. 6332, et seq. The office of public instruction shall prorate payments to districts based upon the available appropriation.

(3) On or before September 15, 2010, the office of public instruction shall report to the governor and the legislature on the change in status of STANDARDIZED test scores, graduation rates, and drop-out rates of at-risk students using fiscal year 2006 data as a baseline.

**NEW SECTION. Section 3. Indian education for all payment.** (1) The state shall provide an Indian education for all payment to public school districts, as defined in 20-6-101 and 20-6-701, to implement the provisions of Article X, section 1(2), of the Montana constitution and Title 20, chapter 1, part 5.

(2) The Indian education for all payment is the greater of \$100 for each district or \$20.40 for each ANB, calculated as provided in 20-9-311, for each fiscal year.

(3) The district shall deposit the payment in the general fund of the district.

**NEW SECTION. Section 4. American Indian achievement gap payment.** (1) The state shall provide an American Indian achievement gap payment to public school districts, as defined in 20-6-101 and 20-6-701, for the purpose of closing the educational achievement gap that exists between American Indian students and non-Indian students.

(2) (A) The American Indian achievement gap payment is ~~\$100~~ \$200 for each American Indian student enrolled in the district based on the count of regularly enrolled students on the first Monday in October of the prior school year as reported to the office of public instruction.

**(B) A SCHOOL DISTRICT MAY NOT REQUIRE A STUDENT TO DISCLOSE THE STUDENT'S RACE.**

(3) The district shall deposit the payment in the general fund of the district.

(4) On or before September 15, 2010, the office of public instruction shall report to the governor and the legislature on the change in status of STANDARDIZED test scores, graduation rates, and drop-out rates of American Indian students using fiscal year 2006 data as a baseline.

**SECTION 5. SECTION 20-5-323, MCA, IS AMENDED TO READ:**

**"20-5-323. Tuition and transportation rates.** (1) Except as provided in subsections (2) through (5), whenever a child has approval to attend a school outside of the child's district of residence under the provisions

1 of 20-5-320 or 20-5-321, the rate of tuition charged for a Montana resident student may not exceed 20% of the  
2 per-ANB maximum rate established in 20-9-306 for the year of attendance.

3 (2) The tuition for a child with a disability must be determined under rules adopted by the superintendent  
4 of public instruction for the calculation of tuition for special education pupils.

5 (3) The tuition rate for out-of-district placement pursuant to 20-5-321(1)(d) and (1)(e) for a student  
6 without disabilities who requires a program with costs that exceed the average district costs must be determined  
7 as the actual individual costs of providing that program according to the following:

8 (a) the district of attendance and the district, person, or entity responsible for the tuition payments shall  
9 approve an agreement with the district of attendance for the tuition cost;

10 (b) for a Montana resident student, 80% of the maximum per-ANB rate established in 20-9-306,  
11 received in the year for which the tuition charges are calculated, must be subtracted from the per-student  
12 program costs for a Montana resident student; and

13 (c) the maximum tuition rate paid to a district under this section may not exceed \$2,500 per ANB.

14 (4) When a child attends a public school of another state or province, the amount of daily tuition may  
15 not be greater than the average annual cost for each student in the child's district of residence. This calculation  
16 for tuition purposes is determined by totaling all of the expenditures for all of the district budgeted funds for the  
17 preceding school fiscal year and dividing that amount by the October 1 enrollment in the preceding school fiscal  
18 year. For the purposes of this subsection, the following do not apply:

19 (a) placement of a child with a disability pursuant to Title 20, chapter 7, part 4;

20 (b) placement made in a state or province with a reciprocal tuition agreement pursuant to 20-5-314;

21 (c) an order issued under Title 40, chapter 4, part 2; or

22 (d) out-of-state placement by a state agency.

23 (5) When a child is placed by a state agency in an out-of-state residential facility, the state agency  
24 making the placement is responsible for the education costs resulting from the placement.

25 (6) The amount, if any, charged for transportation may not exceed the lesser of the average  
26 transportation cost for each student in the child's district of residence or ~~25~~ 35 cents a mile. The average  
27 expenditures for the district transportation fund for the preceding school fiscal year must be calculated by  
28 dividing the transportation fund expenditures by the October 1 enrollment for the preceding fiscal year."

29  
30 **Section 6.** Section 20-7-102, MCA, is amended to read:

1       **"20-7-102. (Temporary) Accreditation of schools.** (1) The conditions under which each elementary  
2 school, each middle school, each junior high school, 7th and 8th grades funded at high school rates, and each  
3 high school operates must be reviewed by the superintendent of public instruction to determine compliance with  
4 the standards of accreditation. The accreditation status of ~~every~~ each school must then be established by the  
5 board of public education upon the recommendation of the superintendent of public instruction. Notification of  
6 the accreditation status for the applicable school year or years must be given to each district by the  
7 superintendent of public instruction.

8       (2) A school may be accredited for a period consisting of 1, 2, 3, 4, or 5 school years, except that  
9 multiyear accreditation may be granted only to schools that are in compliance with 20-4-101.

10       (3) A nonpublic school may, through its governing body, request that the board of public education  
11 accredit the school. Nonpublic schools may be accredited in the same manner as provided in subsection (1).

12       (4) As used in this section, "7th and 8th grades funded at high school rates" means an elementary  
13 school district or K-12 district elementary program whose 7th and 8th grades are funded as provided in  
14 ~~20-9-306(11)(e)(ii) 20-9-306(15)(e)(ii) 20-9-306(14)(C)(II).~~ (Terminates June 30, 2007--sec. 25(2), Ch. 462, L.  
15 2005.)

16       **20-7-102. (Effective July 1, 2007) Accreditation of schools.** (1) The conditions under which each  
17 elementary school, each middle school, each junior high school, 7th and 8th grades funded at high school rates,  
18 and each high school operates must be reviewed by the superintendent of public instruction to determine  
19 compliance with the standards of accreditation. The accreditation status of ~~every~~ each school must then be  
20 established by the board of public education upon the recommendation of the superintendent of public  
21 instruction. Notification of the accreditation status for the applicable school year or years must be given to each  
22 district by the superintendent of public instruction.

23       (2) A school may be accredited for a period consisting of 1, 2, 3, 4, or 5 school years, except that  
24 multiyear accreditation may be granted only to schools that are in compliance with 20-4-101.

25       (3) A nonpublic school may, through its governing body, request that the board of public education  
26 accredit the school. Nonpublic schools may be accredited in the same manner as provided in subsection (1).

27       (4) As used in this section, "7th and 8th grades funded at high school rates" means an elementary  
28 school district or K-12 district elementary program whose 7th and 8th grades are funded as provided in  
29 ~~20-9-306(10)(e)(ii) 20-9-306(15)(e)(ii) 20-9-306(14)(C)(II).~~"

1           **Section 7.** Section 20-9-306, MCA, is amended to read:

2           **"20-9-306. (Temporary) Definitions.** As used in this title, unless the context clearly indicates otherwise,  
3 the following definitions apply:

4           (1) "BASE" means base amount for school equity.

5           (2) "BASE aid" means:

6           (a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the  
7 general fund budget of a district; and

8           (b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement,  
9 up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the  
10 special education allowable cost payment.

11           (3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of the  
12 basic entitlement, 80% of the total per-ANB entitlement, and 140% of the special education allowable cost  
13 payment.

14           (4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may  
15 be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through  
16 20-9-369.

17           (5) "BASE funding program" means the state program for the equitable distribution of the state's share  
18 of the cost of Montana's basic system of public elementary schools and high schools, through county  
19 equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in  
20 support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

21           (6) "Basic entitlement" means:

22           (a) \$225,273 for each high school district;

23           (b) \$20,275 for each elementary school district or K-12 district elementary program without an approved  
24 and accredited junior high school or middle school; and

25           (c) the prorated entitlement for each elementary school district or K-12 district elementary program with  
26 an approved and accredited junior high school or middle school, calculated as follows using either the current  
27 year ANB or the 3-year ANB provided for in 20-9-311:

28           (i) \$20,275 times the ratio of the ANB for kindergarten through grade 6 to the total ANB of kindergarten  
29 through grade 8; plus

30           (ii) \$225,273 times the ratio of the ANB for grades 7 and 8 to the total ANB of kindergarten through grade

1 8.

2 (7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to  
3 20-9-311.

4 (8) "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement  
5 for the general fund budget of a district and funded with state and county equalization aid.

6 (9) "Maximum general fund budget" means a district's general fund budget amount calculated from the  
7 basic entitlement for the district, the total per-ANB entitlement for the district, and the greater of:

8 (a) 175% of special education allowable cost payments; or

9 (b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures  
10 to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a  
11 maximum allowable ratio of 200%.

12 (10) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted  
13 that is above the BASE budget and below the maximum general fund budget for a district.

14 (11) "Total per-ANB entitlement" means the district entitlement resulting from the following calculations  
15 and using either the current year ANB or the 3-year ANB provided for in 20-9-311:

16 (a) for a high school district or a K-12 district high school program, a maximum rate of \$5,584 for the  
17 first ANB is decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800  
18 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;

19 (b) for an elementary school district or a K-12 district elementary program without an approved and  
20 accredited junior high school or middle school, a maximum rate of \$4,366 for the first ANB is decreased at the  
21 rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess  
22 of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

23 (c) for an elementary school district or a K-12 district elementary program with an approved and  
24 accredited junior high school or middle school, the sum of:

25 (i) a maximum rate of \$4,366 for the first ANB for kindergarten through grade 6 is decreased at the rate  
26 of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving  
27 the same amount of entitlement as the 1,000th ANB; and

28 (ii) a maximum rate of \$5,584 for the first ANB for grades 7 and 8 is decreased at the rate of 50 cents  
29 per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800  
30 receiving the same amount of entitlement as the 800th ANB. (Terminates June 30, 2006--sec. 25(1), Ch. 462,

1 L. 2005.)

2 **20-9-306. (Temporary--effective July 1, 2006) Definitions.** As used in this title, unless the context  
3 clearly indicates otherwise, the following definitions apply:

4 (1) "BASE" means base amount for school equity.

5 (2) "BASE aid" means:

6 (a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the  
7 general fund budget of a district; ~~and~~

8 (b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement,  
9 up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the  
10 special education allowable cost payment;

11 (c) the total quality educator payment;

12 (d) the total at-risk student payment;

13 (e) the total Indian education for all payment; and

14 (f) the total American Indian achievement gap payment.

15 (3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of the  
16 basic entitlement, 80% of the total per-ANB entitlement, 100% of the total quality educator payment, 100% of  
17 the total at-risk student payment, 100% of the total Indian education for all payment, 100% of the total American  
18 Indian achievement gap payment, and 140% of the special education allowable cost payment.

19 (4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may  
20 be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through  
21 20-9-369.

22 (5) "BASE funding program" means the state program for the equitable distribution of the state's share  
23 of the cost of Montana's basic system of public elementary schools and high schools, through county  
24 equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in  
25 support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

26 (6) "Basic entitlement" means:

27 (a) \$230,199 for each high school district;

28 (b) \$20,718 for each elementary school district or K-12 district elementary program without an approved  
29 and accredited junior high school or middle school; and

30 (c) the prorated entitlement for each elementary school district or K-12 district elementary program with



an approved and accredited junior high school or middle school, calculated as follows using either the current year ANB or the 3-year ANB provided for in 20-9-311:

(i) \$20,718 times the ratio of the ANB for kindergarten through grade 6 to the total ANB of kindergarten through grade 8; plus

(ii) \$230,199 times the ratio of the ANB for grades 7 and 8 to the total ANB of kindergarten through grade 8.

(7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to 20-9-311.

(8) "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district and funded with state and county equalization aid.

(9) "Maximum general fund budget" means a district's general fund budget amount calculated from the basic entitlement for the district, the total per-ANB entitlement for the district, the total quality educator payment, the total at-risk student payment, the total Indian education for all payment, the total American Indian achievement gap payment, and the greater of:

(a) 175% of special education allowable cost payments; or

(b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a maximum allowable ratio of 200%.

(10) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted that is above the BASE budget and below the maximum general fund budget for a district.

~~(11) "Small school" means a school district with 40 or fewer ANB, as calculated under 20-9-311.~~

~~(12)~~(11) "Total American Indian achievement gap payment" means the payment resulting from multiplying ~~\$400~~ \$200 times the number of American Indian students enrolled in the district as provided in [section 4].

~~(13)~~(12) "Total at-risk student payment" means the payment resulting from the distribution of any funds appropriated for the purposes of [section 2].

~~(14)~~(13) "Total Indian education for all payment" means the payment resulting from multiplying \$20.40 times the ANB of the district or \$100 for each district, whichever is greater, as provided for in [section 3].

~~(11)~~~~(15)~~(14) "Total per-ANB entitlement" means the district entitlement resulting from the following calculations and using either the current year ANB or the 3-year ANB provided for in 20-9-311:

(a) for a high school district or a K-12 district high school program, a maximum rate of \$5,704 for the first ANB is decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;

(b) for an elementary school district or a K-12 district elementary program without an approved and accredited junior high school or middle school, a maximum rate of \$4,456 for the first ANB is decreased at the rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(c) for an elementary school district or a K-12 district elementary program with an approved and accredited junior high school or middle school, the sum of:

(i) a maximum rate of \$4,456 for the first ANB for kindergarten through grade 6 is decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(ii) a maximum rate of \$5,704 for the first ANB for grades 7 and 8 is decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB.

~~(16)(15) "Total quality educator payment" means the payment resulting from multiplying \$2,000 times the number of quality educators in each district plus the payment resulting from multiplying \$2,000 times the number of additional quality educators for small schools, calculated as provided in [section 1]~~ FULL-TIME EQUIVALENT EDUCATORS AS PROVIDED IN [SECTION 1]. (Terminates June 30, 2007--sec. 25(2), Ch. 462, L. 2005.)

**20-9-306. (Effective July 1, 2007) Definitions.** As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "BASE" means base amount for school equity.

(2) "BASE aid" means:

(a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district; ~~and~~

(b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the special education allowable cost payment;

(c) the total quality educator payment;

(d) the total at-risk student payment;

1 (e) the total Indian education for all payment; and

2 (f) the total American Indian achievement gap payment.

3 (3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of the  
4 basic entitlement, 80% of the total per-ANB entitlement, 100% of the total quality educator payment, 100% of  
5 the total at-risk student payment, 100% of the total Indian education for all payment, 100% of the total American  
6 Indian achievement gap payment, and ~~up to~~ 140% of the special education allowable cost payment.

7 (4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may  
8 be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through  
9 20-9-369.

10 (5) "BASE funding program" means the state program for the equitable distribution of the state's share  
11 of the cost of Montana's basic system of public elementary schools and high schools, through county  
12 equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in  
13 support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

14 (6) "Basic entitlement" means:

15 (a) ~~\$220,646~~ \$230,199 for each high school district;

16 (b) ~~\$19,859~~ \$20,718 for each elementary school district or K-12 district elementary program without an  
17 approved and accredited junior high school or middle school; and

18 (c) the prorated entitlement for each elementary school district or K-12 district elementary program with  
19 an approved and accredited junior high school or middle school, calculated as follows using either the current  
20 year ANB or the 3-year ANB provided for in 20-9-311:

21 (i) ~~\$19,859~~ \$20,718 times the ratio of the ANB for kindergarten through grade 6 to the total ANB of  
22 kindergarten through grade 8; plus

23 (ii) ~~\$220,646~~ \$230,199 times the ratio of the ANB for grades 7 and 8 to the total ANB of kindergarten  
24 through grade 8.

25 (7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to  
26 20-9-311.

27 ~~(7)(8)~~ (8) "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB  
28 entitlement for the general fund budget of a district and funded with state and county equalization aid.

29 ~~(8)(9)~~ (9) "Maximum general fund budget" means a district's general fund budget amount calculated from  
30 the basic entitlement for the district, the total per-ANB entitlement for the district, the total quality educator

payment, the total at-risk student payment, the total Indian education for all payment, the total American Indian achievement gap payment. and the greater of:

(a) 175% of special education allowable cost payments; or

(b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a maximum allowable ratio of 200%.

~~(9)(10)~~ "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted that is above the BASE budget and below the maximum general fund budget for a district.

~~(11)~~ "Small school" means a school district with 40 or fewer ANB, as calculated under 20-9-311.

~~(12)~~(11) "Total American Indian achievement gap payment" means the payment resulting from multiplying ~~\$100~~ \$200 times the number of American Indian students enrolled in the district as provided in [section 4].

~~(13)~~(12) "Total at-risk student payment" means the payment resulting from the distribution of any funds appropriated for the purposes of [section 2].

~~(14)~~(13) "Total Indian education for all payment" means the payment resulting from multiplying \$20.40 times the ANB of the district or \$100 for each district, whichever is greater, as provided for in [section 3].

~~(10)(15)~~(14) "Total per-ANB entitlement" means the district entitlement resulting from the following calculations and using either the current year ANB or the 3-year ANB provided for in 20-9-311:

(a) for a high school district or a K-12 district high school program, a maximum rate of ~~\$5,371~~ \$5,704 for the first ANB is decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;

(b) for an elementary school district or a K-12 district elementary program without an approved and accredited junior high school or middle school, a maximum rate of ~~\$4,031~~ \$4,456 for the first ANB is decreased at the rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(c) for an elementary school district or a K-12 district elementary program with an approved and accredited junior high school or middle school, the sum of:

(i) a maximum rate of ~~\$4,031~~ \$4,456 for the first ANB for kindergarten through grade 6 is decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(ii) a maximum rate of ~~\$5,374~~ \$5,704 for the first ANB for grades 7 and 8 is decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB.

~~(16)(15) "Total quality educator payment" means the payment resulting from multiplying \$2,000 times the number of quality educators for each district plus the payment resulting from multiplying \$2,000 times the number of additional quality educators for small schools, calculated as provided in [section 1] FULL-TIME EQUIVALENT EDUCATORS AS PROVIDED IN [SECTION 1]."~~

**Section 8.** Section 20-9-311, MCA, is amended to read:

**"20-9-311. (Temporary) Calculation of average number belonging (ANB) -- 3-year averaging. (1)**

Average number belonging (ANB) must be computed for each budget unit as follows:

(a) compute an average enrollment by adding a count of regularly enrolled full-time pupils who were enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils on February 1 of the prior school fiscal year, or the next school day if those dates do not fall on a school day, and divide the sum by two; and

(b) multiply the average enrollment calculated in subsection (1)(a) by the sum of 180 and the approved pupil-instruction-related days for the current school fiscal year and divide by 180.

(2) For the purpose of calculating ANB under subsection (1), up to 7 approved pupil-instruction-related days may be included in the calculation.

(3) When a school district has approval to operate less than the minimum aggregate hours under 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

(4) (a) Except as provided in subsection (5), for the purpose of calculating ANB, enrollment in an education program:

(i) from 181 to 359 aggregate hours of pupil instruction per school year is counted as one-quarter-time enrollment;

(ii) from 360 to 539 aggregate hours of pupil instruction per school year is counted as half-time enrollment;

(iii) from 540 to 719 aggregate hours of pupil instruction per school year is counted as three-quarter-time enrollment; and

(iv) 720 or more aggregate hours of pupil instruction per school year is counted as full-time enrollment.

(b) Enrollment in a program intended to provide fewer than 180 aggregate hours of pupil instruction per school year may not be included for purposes of ANB.

(c) Enrollment in a self-paced program or course may be converted to an hourly equivalent based on the hours necessary and appropriate to provide the course within a regular classroom schedule.

(d) A pupil in grades 1 through 12 who is concurrently enrolled in more than one public school, program, or district may not be counted as more than one full-time pupil for ANB purposes.

(5) In calculating the ANB for pupils enrolled in a program established under 20-7-117(1), enrollment in a program that provides 360 or more aggregate hours of pupil instruction per school year must be counted as one-half pupil for ANB purposes.

(6) When a pupil has been absent, with or without excuse, for more than 10 consecutive school days, the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil resumes attendance prior to the day of the enrollment count.

(7) The enrollment of prekindergarten pupils, as provided in 20-7-117, may not be included in the ANB calculations.

(8) The average number belonging of the regularly enrolled, full-time pupils for the public schools of a district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the schools of the district, except that the ANB is calculated as a separate budget unit when:

(a) (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or town located in the district and at least 20 miles from any other school of the district, the number of regularly enrolled, full-time pupils of the school must be calculated as a separate budget unit for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

(ii) a school of the district is located more than 20 miles from any other school of the district and incorporated territory is not involved in the district, the number of regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

(iii) the superintendent of public instruction approves an application not to aggregate when conditions exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel, or when any other condition exists that would result in an unusual hardship to the pupils of the school if they were transported to another school, the number of regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the

1 other schools of the district; or

2 (iv) two or more districts consolidate or annex under the provisions of 20-6-422 or 20-6-423, the ANB  
3 and the basic entitlements of the component districts must be calculated separately for a period of 3 years  
4 following the consolidation or annexation. Each district shall retain a percentage of its basic entitlement for 3  
5 additional years as follows:

6 (A) 75% of the basic entitlement for the fourth year;

7 (B) 50% of the basic entitlement for the fifth year; and

8 (C) 25% of the basic entitlement for the sixth year.

9 (b) a junior high school has been approved and accredited as a junior high school, all of the regularly  
10 enrolled, full-time pupils of the junior high school must be considered as high school district pupils for ANB  
11 purposes;

12 (c) a middle school has been approved and accredited, all pupils below the 7th grade must be  
13 considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered  
14 high school pupils for ANB purposes; or

15 (d) a school has not been accredited by the board of public education, the regularly enrolled, full-time  
16 pupils attending the nonaccredited school are not eligible for average number belonging calculation purposes,  
17 nor will an average number belonging for the nonaccredited school be used in determining the BASE funding  
18 program for the district.

19 (9) The district shall provide the superintendent of public instruction with semiannual reports of school  
20 attendance, absence, and enrollment for regularly enrolled students, using a format determined by the  
21 superintendent.

22 (10) (a) Except as provided in subsections (10)(b) and (10)(c), enrollment in a basic education program  
23 provided by the district through any combination of onsite or offsite instruction may be included for ANB  
24 purposes only if the pupil is offered access to the complete range of educational services for the basic education  
25 program required by the accreditation standards adopted by the board of public education.

26 (b) Access to school programs and services for a student placed by the trustees in a private program  
27 for special education may be limited to the programs and services specified in an approved individual education  
28 plan supervised by the district.

29 (c) Access to school programs and services for a student who is incarcerated in a facility, other than  
30 a youth detention center, may be limited to the programs and services provided by the district at district expense

1 under an agreement with the incarcerating facility.

2 (d) This subsection (10) may not be construed to require a school district to offer access to activities  
3 governed by an organization having jurisdiction over interscholastic activities, contests, and tournaments to a  
4 pupil who is not otherwise eligible under the rules of the organization.

5 (11) A district may include only, for ANB purposes, an enrolled pupil who is otherwise eligible under this  
6 title and who is:

7 (a) a resident of the district or a nonresident student admitted by trustees under a student attendance  
8 agreement and who is attending a school of the district;

9 (b) unable to attend school due to a medical reason certified by a medical doctor and receiving  
10 individualized educational services supervised by the district, at district expense, at a home or facility that does  
11 not offer an educational program;

12 (c) unable to attend school due to the student's incarceration in a facility, other than a youth detention  
13 center, and who is receiving individualized educational services supervised by the district, at district expense,  
14 at a home or facility that does not offer an educational program;

15 (d) receiving special education and related services, other than day treatment, under a placement by  
16 the trustees at a private nonsectarian school or private program if the pupil's services are provided at the  
17 district's expense under an approved individual education plan supervised by the district;

18 (e) participating in the running start program at district expense under 20-9-706;

19 (f) receiving educational services, provided by the district, using appropriately licensed district staff at  
20 a private residential program or private residential facility licensed by the department of public health and human  
21 services;

22 (g) enrolled in an educational program or course provided at district expense using electronic or offsite  
23 delivery methods, including but not limited to tutoring, distance learning programs, online programs, and  
24 technology delivered learning programs, while attending a school of the district or any other nonsectarian offsite  
25 instructional setting with the approval of the trustees of the district. The pupil shall:

26 (i) meet the residency requirements for that district as provided in 1-1-215;

27 (ii) live in the district and must be eligible for educational services under the Individuals With Disabilities  
28 Education Act or under 29 U.S.C. 794; or

29 (iii) attend school in the district under a mandatory attendance agreement as provided in 20-5-321.

30 (h) a resident of the district attending a Montana job corps program under an interlocal agreement with



1 the district under 20-9-707.

2 (12) (a) For an elementary or high school district that has been in existence for ~~3 or more~~ years or more,  
3 the district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be  
4 calculated using the current year ANB for all budget units or the 3-year average ANB for all budget units,  
5 whichever generates the greatest maximum general fund budget.

6 (b) For a K-12 district that has been in existence for 3 years or more, the district's maximum general  
7 fund budget and BASE budget for the ensuing school fiscal year must be calculated separately for the  
8 elementary and high school programs pursuant to subsection (12)(a) and then combined.

9 (13) The term "3-year ANB" means an average ANB over the most recent 3-year period, calculated by:

10 (a) adding the ANB for the budget unit for the ensuing school fiscal year to the ANB for each of the  
11 previous 2 school fiscal years; and

12 (b) dividing the sum calculated under subsection (13)(a) by three. (Terminates June 30, 2007--sec.  
13 25(2), Ch. 462, L. 2005.)

14 **20-9-311. (Effective July 1, 2007) Calculation of average number belonging (ANB).** (1) Average  
15 number belonging (ANB) must be computed as follows:

16 (a) compute an average enrollment by adding a count of regularly enrolled full-time pupils who were  
17 enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils  
18 on February 1 of the prior school fiscal year, or the next school day if those dates do not fall on a school day,  
19 and divide the sum by two; and

20 (b) multiply the average enrollment calculated in subsection (1)(a) by the sum of 180 and the approved  
21 pupil-instruction-related days for the current school fiscal year and divide by 180.

22 (2) For the purpose of calculating ANB under subsection (1), up to 7 approved pupil-instruction-related  
23 days may be included in the calculation.

24 (3) When a school district has approval to operate less than the minimum aggregate hours under  
25 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

26 (4) (a) Except as provided in subsection (5), for the purpose of calculating ANB, enrollment in an  
27 education program:

28 (i) from 181 to 359 aggregate hours of pupil instruction per school year is counted as one-quarter-time  
29 enrollment;

30 (ii) from 360 to 539 aggregate hours of pupil instruction per school year is counted as half-time

1 enrollment;

2 (iii) from 540 to 719 aggregate hours of pupil instruction per school year is counted as three-quarter-time  
3 enrollment; and

4 (iv) 720 or more aggregate hours of pupil instruction per school year is counted as full-time enrollment.

5 (b) Enrollment in a program intended to provide fewer than 180 aggregate hours of pupil instruction per  
6 school year may not be included for purposes of ANB.

7 (c) Enrollment in a self-paced program or course may be converted to an hourly equivalent based on  
8 the hours necessary and appropriate to provide the course within a regular classroom schedule.

9 (d) A pupil in grades 1 through 12 who is concurrently enrolled in more than one public school, program,  
10 or district may not be counted as more than one full-time pupil for ANB purposes.

11 (5) In calculating the ANB for pupils enrolled in a program established under 20-7-117(1), enrollment  
12 in a program that provides 360 or more aggregate hours of pupil instruction per school year must be counted  
13 as one-half pupil for ANB purposes.

14 (6) When a pupil has been absent, with or without excuse, for more than 10 consecutive school days,  
15 the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil  
16 resumes attendance prior to the day of the enrollment count.

17 (7) The enrollment of prekindergarten pupils, as provided in 20-7-117, may not be included in the ANB  
18 calculations.

19 (8) The average number belonging of the regularly enrolled, full-time pupils for the public schools of a  
20 district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the schools of the  
21 district, except that when:

22 (a) (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or  
23 town located in the district and at least 20 miles from any other school of the district, the number of regularly  
24 enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the district must  
25 receive a basic entitlement for the school calculated separately from the other schools of the district;

26 (ii) a school of the district is located more than 20 miles from any other school of the district and  
27 incorporated territory is not involved in the district, the number of regularly enrolled, full-time pupils of the school  
28 must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school  
29 calculated separately from the other schools of the district;

30 (iii) the superintendent of public instruction approves an application not to aggregate when conditions

1 exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel, or when any  
2 other condition exists that would result in an unusual hardship to the pupils of the school if they were transported  
3 to another school, the number of regularly enrolled, full-time pupils of the school must be calculated separately  
4 for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the  
5 other schools of the district; or

6 (iv) two or more districts consolidate or annex under the provisions of 20-6-422 or 20-6-423, the ANB  
7 and the basic entitlements of the component districts must be calculated separately for a period of 3 years  
8 following the consolidation or annexation. Each district shall retain a percentage of its basic entitlement for 3  
9 additional years as follows:

10 (A) 75% of the basic entitlement for the fourth year;

11 (B) 50% of the basic entitlement for the fifth year; and

12 (C) 25% of the basic entitlement for the sixth year.

13 (b) a junior high school has been approved and accredited as a junior high school, all of the regularly  
14 enrolled, full-time pupils of the junior high school must be considered as high school district pupils for ANB  
15 purposes;

16 (c) a middle school has been approved and accredited, all pupils below the 7th grade must be  
17 considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered  
18 high school pupils for ANB purposes; or

19 (d) a school has not been accredited by the board of public education, the regularly enrolled, full-time  
20 pupils attending the nonaccredited school are not eligible for average number belonging calculation purposes,  
21 nor will an average number belonging for the nonaccredited school be used in determining the BASE funding  
22 program for the district.

23 (9) The district shall provide the superintendent of public instruction with semiannual reports of school  
24 attendance, absence, and enrollment for regularly enrolled students, using a format determined by the  
25 superintendent.

26 (10) (a) Except as provided in subsections (10)(b) and (10)(c), enrollment in a basic education program  
27 provided by the district through any combination of onsite or offsite instruction may be included for ANB  
28 purposes only if the pupil is offered access to the complete range of educational services for the basic education  
29 program required by the accreditation standards adopted by the board of public education.

30 (b) Access to school programs and services for a student placed by the trustees in a private program

1 for special education may be limited to the programs and services specified in an approved individual education  
2 plan supervised by the district.

3 (c) Access to school programs and services for a student who is incarcerated in a facility, other than  
4 a youth detention center, may be limited to the programs and services provided by the district at district expense  
5 under an agreement with the incarcerating facility.

6 (d) This subsection (10) may not be construed to require a school district to offer access to activities  
7 governed by an organization having jurisdiction over interscholastic activities, contests, and tournaments to a  
8 pupil who is not otherwise eligible under the rules of the organization.

9 (11) A district may include only, for ANB purposes, an enrolled pupil who is otherwise eligible under this  
10 title and who is:

11 (a) a resident of the district or a nonresident student admitted by trustees under a student attendance  
12 agreement and who is attending a school of the district;

13 (b) unable to attend school due to a medical reason certified by a medical doctor and receiving  
14 individualized educational services supervised by the district, at district expense, at a home or facility that does  
15 not offer an educational program;

16 (c) unable to attend school due to the student's incarceration in a facility, other than a youth detention  
17 center, and who is receiving individualized educational services supervised by the district, at district expense,  
18 at a home or facility that does not offer an educational program;

19 (d) receiving special education and related services, other than day treatment, under a placement by  
20 the trustees at a private nonsectarian school or private program if the pupil's services are provided at the  
21 district's expense under an approved individual education plan supervised by the district;

22 (e) participating in the running start program at district expense under 20-9-706;

23 (f) receiving educational services, provided by the district, using appropriately licensed district staff at  
24 a private residential program or private residential facility licensed by the department of public health and human  
25 services;

26 (g) enrolled in an educational program or course provided at district expense using electronic or offsite  
27 delivery methods, including but not limited to tutoring, distance learning programs, online programs, and  
28 technology delivered learning programs, while attending a school of the district or any other nonsectarian offsite  
29 instructional setting with the approval of the trustees of the district. The pupil shall:

30 (i) meet the residency requirements for that district as provided in 1-1-215;

(ii) live in the district and must be eligible for educational services under the Individuals With Disabilities Education Act or under 29 U.S.C. 794; or

(iii) attend school in the district under a mandatory attendance agreement as provided in 20-5-321.

(h) a resident of the district attending a Montana job corps program under an interlocal agreement with the district under 20-9-707.

(12) (a) For an elementary or high school district that has been in existence for 3 years or more, the district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated using the current year ANB for all budget units or the 3-year average ANB for all budget units, whichever generates the greatest maximum general fund budget.

(b) For a K-12 district that has been in existence for 3 years or more, the district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated separately for the elementary and high school programs pursuant to subsection (12)(a) and then combined.

(13) The term "3-year ANB" means an average ANB over the most recent 3-year period, calculated by:

(a) adding the ANB for the budget unit for the ensuing school fiscal year to the ANB for each of the previous 2 school fiscal years; and

(b) dividing the sum calculated under subsection (13)(a) by three."

**Section 9.** Section 20-9-321, MCA, is amended to read:

**"20-9-321. (Temporary) Allowable cost payment for special education.** (1) As used in this section, "ANB" means the current year ANB.

(2) The 3-year average ANB provided for in 20-9-311~~(42)~~ does not apply to the calculation and distribution of state special education allowable cost payments provided for in this section.

(3) For the purpose of establishing the allowable cost payment for a current year special education program for a school district, the superintendent of public instruction shall determine the total special education payment to a school district, cooperative, or joint board for special education services formed under 20-3-361 prior to July 1, 1992, using the following factors:

(a) the district ANB student count as established pursuant to 20-9-311 and 20-9-313;

(b) a per-ANB amount for the special education instructional block grant;

(c) a per-ANB amount for the special education-related services block grant;

(d) an amount for cooperatives or joint boards meeting the requirements of 20-7-457, to compensate

1 for the additional costs of operations and maintenance, travel, supportive services, recruitment, and  
2 administration; and

3 (e) any other data required by the superintendent of public instruction to administer the provisions of  
4 this section.

5 (4) (a) The total special education allocation must be distributed according to the following formula:

6 (i) 52.5% through instructional block grants;

7 (ii) 17.5% through related services block grants;

8 (iii) 25% to reimbursement of local districts; and

9 (iv) 5% to special education cooperatives and joint boards for administration and travel.

10 (b) Special education allowable cost payments outlined in subsection (4)(a) must be granted to each  
11 school district and cooperative with a special education program as follows:

12 (i) The instructional block grant limit prescribed in subsection (4)(a)(i) must be awarded to each school  
13 district, based on the district ANB and the per-ANB special education instructional amount.

14 (ii) The special education-related services block grant limit prescribed in subsection (4)(a)(ii) must be  
15 awarded to each school district that is not a cooperative member, based on the district ANB and the per-ANB  
16 special education-related services amount, or to a cooperative or joint board that meets the requirements of  
17 20-7-457. The special education-related services block grant amount for districts that are members of approved  
18 cooperatives or a joint board must be awarded to the cooperatives or joint board.

19 (iii) If a district's allowable costs of special education exceed the total of the special education  
20 instructional and special education-related services block grant plus the required district match required by  
21 subsection (6), the district is eligible to receive at least a 40% reimbursement of the additional costs. To ensure  
22 that the total of reimbursements to all districts does not exceed 25% of the total special education allocation limit  
23 established in subsection (4)(a)(iii), reimbursement must be made to districts for amounts that exceed a  
24 threshold level calculated annually by the office of public instruction. The threshold level is calculated as a  
25 percentage amount above the sum of the district's block grants plus the required district match.

26 (iv) Of the amount distributed under subsection (4)(a)(iv), three-fifths must be distributed based on the  
27 ANB count of the school districts that are members of the special education cooperative or joint board and  
28 two-fifths must be distributed based on distances, population density, and the number of itinerant personnel  
29 under rules adopted by the superintendent of public instruction.

30 (5) The superintendent of public instruction shall adopt rules necessary to implement this section.

(6) A district shall provide a 25% local contribution for special education, matching every \$3 of state special education instructional and special education-related services block grants with at least one local dollar. A district that is a cooperative member is required to provide the 25% match of the special education-related services grant amount to the special education cooperative.

(7) The superintendent of public instruction shall determine the actual district match based on the trustees' reports. Any unmatched portion reverts to the state and must be subtracted from the district's ensuing year's special education allowable cost payment.

(8) A district that demonstrates severe economic hardship because of exceptional special education costs may apply to the superintendent of public instruction for an advance on the reimbursement for the year in which the actual costs will be incurred. (Terminates June 30, 2007--sec. 25(2), Ch. 462, L. 2005.)

**20-9-321. (Effective July 1, 2007) Allowable cost payment for special education. (1) As used in this section, "ANB" means the current year ANB.**

**(2) The 3-year average ANB provided for in 20-9-311 does not apply to the calculation and distribution of state special education allowable cost payments provided for in this section.**

~~(1)~~(3) For the purpose of establishing the allowable cost payment for a current year special education program for a school district, the superintendent of public instruction shall determine the total special education payment to a school district, cooperative, or joint board for special education services formed under 20-3-361 prior to July 1, 1992, using the following factors:

- (a) the district ANB student count as established pursuant to 20-9-311 and 20-9-313;
- (b) a per-ANB amount for the special education instructional block grant;
- (c) a per-ANB amount for the special education-related services block grant;
- (d) an amount for cooperatives or joint boards meeting the requirements of 20-7-457, to compensate for the additional costs of operations and maintenance, travel, supportive services, recruitment, and administration; and
- (e) any other data required by the superintendent of public instruction to administer the provisions of this section.

- ~~(2)~~(4) (a) The total special education allocation must be distributed according to the following formula:
- (i) 52.5% through instructional block grants;
  - (ii) 17.5% through related services block grants;
  - (iii) 25% to reimbursement of local districts; and

(iv) 5% to special education cooperatives and joint boards for administration and travel.

(b) Special education allowable cost payments outlined in subsection ~~(2)(a)~~ (4)(a) must be granted to each school district and cooperative with a special education program as follows:

(i) The instructional block grant limit prescribed in subsection ~~(2)(a)(i)~~ (4)(a)(i) must be awarded to each school district, based on the district ANB and the per-ANB special education instructional amount.

(ii) The special education-related services block grant limit prescribed in subsection ~~(2)(a)(ii)~~ (4)(a)(ii) must be awarded to each school district that is not a cooperative member, based on the district ANB and the per-ANB special education-related services amount, or to a cooperative or joint board that meets the requirements of 20-7-457. The special education-related services block grant amount for districts that are members of approved cooperatives or a joint board must be awarded to the cooperatives or joint board.

(iii) If a district's allowable costs of special education exceed the total of the special education instructional and special education-related services block grant plus the required district match required by subsection ~~(4)~~ (6), the district is eligible to receive at least a 40% reimbursement of the additional costs. To ensure that the total of reimbursements to all districts does not exceed 25% of the total special education allocation limit established in subsection ~~(2)(a)(iii)~~ (4)(a)(iii), reimbursement must be made to districts for amounts that exceed a threshold level calculated annually by the office of public instruction. The threshold level is calculated as a percentage amount above the sum of the district's block grants plus the required district match.

(iv) Of the amount distributed under subsection ~~(2)(a)(iv)~~ (4)(a)(iv), three-fifths must be distributed based on the ANB count of the school districts that are members of the special education cooperative or joint board and two-fifths must be distributed based on distances, population density, and the number of itinerant personnel under rules adopted by the superintendent of public instruction.

~~(3)(5)~~ The superintendent of public instruction shall adopt rules necessary to implement this section.

~~(4)(6)~~ A district shall provide a 25% local contribution for special education, matching every \$3 of state special education instructional and special education-related services block grants with at least one local dollar. A district that is a cooperative member is required to provide the 25% match of the special education-related services grant amount to the special education cooperative.

~~(5)(7)~~ The superintendent of public instruction shall determine the actual district match based on the trustees' reports. Any unmatched portion reverts to the state and must be subtracted from the district's ensuing year's special education allowable cost payment.

~~(6)(8)~~ A district that demonstrates severe economic hardship because of exceptional special education



costs may apply to the superintendent of public instruction for an advance on the reimbursement for the year in which the actual costs will be incurred."

**Section 10.** Section 20-9-344, MCA, is amended to read:

**"20-9-344. Duties of board of public education for distribution of BASE aid.** (1) The board of public education shall administer and distribute the BASE aid and state advances for county equalization in the manner and with the powers and duties provided by law. The board of public education:

(a) shall adopt policies for regulating the distribution of BASE aid and state advances for county equalization in accordance with the provisions of law;

(b) may require reports from the county superintendents, county treasurers, and trustees ~~as~~ that it considers necessary; and

(c) shall order the superintendent of public instruction to distribute the BASE aid on the basis of each district's annual entitlement to the aid as established by the superintendent of public instruction. In ordering the distribution of BASE aid, the board of public education may not increase or decrease the BASE aid distribution to any district on account of any difference that may occur during the school fiscal year between budgeted and actual receipts from any other source of school revenue.

(2) The board of public education may order the superintendent of public instruction to withhold distribution of BASE aid from a district when the district fails to:

(a) submit reports or budgets as required by law or rules adopted by the board of public education; or

(b) maintain accredited status.

(3) Prior to any proposed order by the board of public education to withhold distribution of BASE aid or county equalization money, the district is entitled to a contested case hearing before the board of public education, as provided under the Montana Administrative Procedure Act.

(4) If a district or county receives more BASE aid than it is entitled to, the county treasurer shall return the overpayment to the state upon the request of the superintendent of public instruction in the manner prescribed by the superintendent of public instruction.

(5) Except as provided in 20-9-347(2), the BASE aid payment must be distributed according to the following schedule:

(a) from August to October of the school fiscal year, to each district 10% of:

(i) ~~the direct state aid to each district;~~

1 (ii) the total quality educator payment;

2 (iii) the total at-risk student payment;

3 (iv) the total Indian education for all payment; and

4 (v) the total American Indian achievement gap payment;

5 (b) from December to April of the school fiscal year, to each district 10% of:

6 (i) ~~the direct state aid to each district;~~

7 (ii) the total quality educator payment;

8 (iii) the total at-risk student payment;

9 (iv) the total Indian education for all payment; and

10 (v) the total American Indian achievement gap payment;

11 (c) in November of the school fiscal year, one-half of the guaranteed tax base aid payment to each  
12 district or county that has submitted a final budget to the superintendent of public instruction in accordance with  
13 the provisions of 20-9-134;

14 (d) in May of the school fiscal year, the remainder of the guaranteed tax base aid payment to each  
15 district or county; and

16 (e) in June of the school fiscal year, the remaining payment to each district of direct state aid, the total  
17 quality educator payment, the total at-risk student payment, the total Indian education for all payment, and the  
18 total American Indian achievement gap payment.

19 (6) The distribution provided for in subsection (5) must occur by the last working day of each month."  
20

21 **SECTION 11. SECTION 20-10-142, MCA, IS AMENDED TO READ:**

22 **"20-10-142. Schedule of maximum reimbursement for individual transportation.** The following  
23 rates for individual transportation constitute the maximum reimbursement to districts for individual transportation  
24 from state and county sources of transportation revenue under the provisions of 20-10-145 and 20-10-146.  
25 These rates constitute the limitation of the budgeted amounts for individual transportation for the ensuing school  
26 fiscal year. The schedules provided in this section may not be altered by any authority other than the legislature.  
27 When the trustees contract with the parent or guardian of any eligible transportee to provide individual  
28 transportation for each day of school attendance, they shall reimburse the parent or guardian for actual miles  
29 transported on the basis of the following schedule:

30 (1) When a parent or guardian transports an eligible transportee or transportees from the residence of

1 the parent or guardian to a school or to schools located within 3 miles of one another, the total reimbursement  
2 for each day of attendance is determined by multiplying the distance in miles between the residence and the  
3 school, or the most distant school if more than one, by 2, subtracting 6 miles from the product, and multiplying  
4 the difference by ~~25~~ 35 cents, provided that:

5 (a) if two or more eligible transportees are transported by a parent or guardian to two or more schools  
6 located within 3 miles of one another and if the schools are operated by different school districts, the total  
7 amount of the reimbursement must be divided equally between the districts;

8 (b) if two or more eligible transportees are transported by a parent or guardian to two or more schools  
9 located more than 3 miles from one another, the parent or guardian must be separately reimbursed for  
10 transporting the eligible transportee or transportees to each school;

11 (c) if a parent transports two or more eligible transportees to a school and a bus stop that are located  
12 within 3 miles of one another, the total reimbursement must be determined under the provisions of this  
13 subsection (1) and must be divided equally between the district operating the school and the district operating  
14 the bus;

15 (d) if a parent transporting two or more eligible transportees to a school or bus stop must, because of  
16 varying arrival and departure times, make more than one round-trip journey to the bus stop or school, the total  
17 reimbursement allowed by this section is limited to one round trip a day for each scheduled arrival or departure  
18 time;

19 (e) notwithstanding subsection (1)(a), (1)(b), (1)(c), or (1)(d), a reimbursement may not be less than ~~25~~  
20 35 cents a day.

21 (2) When the parent or guardian transports an eligible transportee or transportees from the residence  
22 to a bus stop of a bus route approved by the trustees for the transportation of the transportee or transportees,  
23 the total reimbursement for each day of attendance is determined by multiplying the distance in miles between  
24 the residence and the bus stop by 2, subtracting 6 miles from the product, and multiplying the difference by ~~25~~  
25 35 cents, provided that:

26 (a) if the eligible transportees attend schools in different districts but ride on one bus, the districts shall  
27 divide the total reimbursement equally; and

28 (b) if the parent or guardian is required to transport the eligible transportees to more than one bus, the  
29 parent or guardian must be separately reimbursed for transportation to each bus.

30 (3) When, because of excessive distances, impassable roads, or other special circumstances of

isolation, the rates prescribed in subsection (1) or (2) would be an inadequate reimbursement for the transportation costs or would result in a physical hardship for the eligible transportee, a parent or guardian may request an increase in the reimbursement rate. A request for increased rates because of isolation must be made by the parent or guardian on the contract for individual transportation for the ensuing school fiscal year by indicating the special facts and circumstances that exist to justify the increase. Before an increased rate because of isolation may be paid to the requesting parent or guardian, the rate must be approved by the county transportation committee and the superintendent of public instruction after the trustees have indicated their approval or disapproval. Regardless of the action of the trustees and when approval is given by the committee and the superintendent of public instruction, the trustees shall pay the increased rate because of isolation. The increased rate is 1 1/2 times the rate prescribed in subsection (1).

(4) The state and county transportation reimbursement for an individual transportation contract may not exceed ~~\$9.25~~ \$12.95 for each day of attendance for the first eligible transportee and ~~\$6~~ \$8.40 for each day of attendance for each additional eligible transportee.

(5) When the isolated conditions of the household where an eligible transportee resides require an eligible transportee to live away from the household in order to attend school, the eligible transportee is eligible for the room and board reimbursement. Approval to receive the room and board reimbursement must be obtained in the same manner prescribed in subsection (3). The per diem rate for room and board is ~~\$9.25~~ \$12.95 for one eligible transportee and ~~\$6~~ \$8.40 for each additional eligible transportee of the same household.

(6) When the individual transportation provision is to be satisfied by supervised home study or supervised correspondence study, the reimbursement rate is the cost of the study, provided that the course of instruction is approved by the trustees and supervised by the district."

**NEW SECTION. Section 12. Codification instruction.** [Sections 1 through 4] are intended to be codified as an integral part of Title 20, chapter 9, part 3, and the provisions of Title 20, chapter 9, part 3, apply to [sections 1 through 4].

**NEW SECTION. Section 13. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell band of Chippewa.

1        NEW SECTION. **Section 14. Contingent voidness.** If [LC 0002] is not passed and approved with an  
2        appropriation for BASE aid, then [this act] is void.

3  
4 NEW SECTION. **Section 15. Effective date -- applicability.** [This act] is effective July 1, 2006, and  
5 applies to school budgets for school fiscal years beginning on or after July 1, 2006.

6 - END -